

IN THE SENATE

SENATE BILL NO. 1175

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-106, IDAHO CODE, TO CLARIFY APPLICATION OF CERTAIN PROVISIONS, TO STRIKE ARCHAIC VERBIAGE, TO PROVIDE THAT THE DEPARTMENT SHALL TAKE SPECIFIED ACTION RELATING TO THE RELOCATION OF BIGHORN SHEEP, TO PROVIDE FOR CERTAIN WRITTEN AGREEMENTS PRIOR TO TRANSPLANT OR RELOCATION OF BIGHORN SHEEP, TO PROVIDE THAT SPECIFIED DOMESTIC SHEEP AND LIVESTOCK OPERATIONS SHALL BE HELD HARMLESS FROM ADVERSE IMPACTS BY THE STATE OF IDAHO, TO PROVIDE FOR THE RELOCATION OR CONTROL OF CERTAIN BIGHORN SHEEP BY THE DIRECTOR OF THE DEPARTMENT OF FISH AND GAME, TO PROVIDE AN EXCEPTION, TO PROVIDE FOR THE BASIS OF CERTIFICATION AND TO DELETE REFERENCE TO PROVISIONS RELATING TO THE EMPLOYMENT OF CERTAIN VETERINARIANS BY THE DEPARTMENT OF AGRICULTURE; AMENDING SECTION 36-408, IDAHO CODE, TO DELETE REFERENCE TO A CERTAIN VETERINARIAN PROGRAM AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 36-106, Idaho Code, be, and the same is hereby amended to read as follows:

36-106. DIRECTOR OF DEPARTMENT OF FISH AND GAME. (a) Office of Director Created. The commission shall appoint a director of the department of fish and game, hereinafter referred to as the director, who shall be a person with knowledge of, and experience in, the requirements for the protection, conservation, restoration, and management of the wildlife resources of the state. The director shall not hold any other public office, nor any office in any political party organization, and shall devote his entire time to the service of the state in the discharge of his official duties, under the direction of the commission.

(b) Secretary to Commission. The director or his designee shall serve as secretary to the commission.

(c) Compensation and Expenses. The director shall receive such compensation as the commission, with the concurrence and approval of the governor, may determine and shall be reimbursed at the rate provided by law for state employees for all actual and necessary traveling and other expenses incurred by him in the discharge of his official duties.

(d) Oath and Bond. Before entering upon the duties of his office, the director shall take and subscribe to the official oath of office, as provided by section 59-401, Idaho Code, and shall, in addition thereto, swear and affirm that he holds no other public office, nor any position under any political committee or party. Such oath, or affirmation, shall be signed in the office of the secretary of state.

1 The director shall be bonded to the state of Idaho in the time, form and manner prescribed
2 by chapter 8, title 59, Idaho Code.

3 (e) Duties and Powers of Director.

4 1. The director shall have general supervision and control of all activities, functions, and
5 employees of the department of fish and game, under the supervision and direction of the
6 commission, and shall enforce all the provisions of the laws of the state, and rules and
7 proclamations of the commission relating to wild animals, birds, and fish and, further,
8 shall perform all the duties prescribed by section 67-2405, Idaho Code, and other laws of
9 the state not inconsistent with this act, and shall exercise all necessary powers incident
10 thereto not specifically conferred on the commission.

11 2. The director is hereby authorized to appoint as many classified employees as the
12 commission may deem necessary to perform administrative duties, to enforce the laws
13 and to properly implement management, propagation, and protection programs established
14 for carrying out the purposes of the Idaho fish and game code.

15 3. The appointment of such employees shall be made by the director in accordance with
16 chapter 53, title 67, Idaho Code, and rules promulgated pursuant thereto, and they shall be
17 compensated as provided therein. Said employees shall be bonded to the state of Idaho in
18 the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.

19 4. The director is hereby authorized to establish and maintain fish hatcheries for the
20 purpose of hatching, propagating, and distributing all kinds of fish.

21 5. (A) The director, or any person appointed by him in writing to do so, may take
22 wildlife of any kind, dead or alive, or import the same, subject to such conditions,
23 restrictions and rules as he may provide, for the purpose of inspection, cultivation,
24 propagation, distribution, scientific or other purposes deemed by him to be of
25 interest to the fish and game resources of the state.

26 (B) The director shall have supervision over all of the matters pertaining to
27 the inspection, cultivation, propagation and distribution of the wildlife propagated
28 under the provisions of title 36, Idaho Code. He shall also have the power and
29 authority to obtain, by purchase or otherwise, wildlife of any kind or variety which
30 he may deem most suitable for distribution in the state and may have the same
31 properly cared for and distributed throughout the state of Idaho as he may deem
32 necessary.

33 (C) The director is hereby authorized to issue a license/tag/permit to a nonresident
34 landowner who resides in a contiguous state for the purpose of taking one (1)
35 animal during an emergency depredation hunt which includes the landowner's
36 Idaho property subject to such conditions, restrictions or rules as the director may
37 provide. The fee for this license/tag/permit shall be equal to the costs of a resident
38 hunting license, a resident tag fee and a resident depredation permit.

39 (D) Unless relocation is required pursuant to subparagraph (F) herein,
40 Notwithstanding the provisions of section 36-408, Idaho Code, to the contrary,
41 on and after the effective date of this act, the director shall not expend any funds,
42 or take any action, or authorize any employee or agent of the department or other
43 person to take any action, to undertake actual transplants of bighorn sheep into
44 areas they do not now inhabit or to augment the number of bighorn sheep in
45 existing herds until:

(i) The boards of county commissioners of the counties in which the release is proposed to take place have been given reasonable notice of the proposed release.

(ii) The affected federal and state land grazing permittees and owners or leaseholders of private land in or contiguous to the proposed release site have been given reasonable notice of the proposed release.

(iii) The president pro tempore of the senate and the speaker of the house of representatives have received from the director a plan for the forthcoming year that details, to the best of the department's ability, the proposed transplants which shall include the estimated numbers of bighorn sheep to be transplanted and a description of the areas the proposed transplant or transplants are planned for.

Upon request, the department shall grant one (1) hearing per transplant or relocation if any affected individual or entity expresses written concern within ten (10) days of notification regarding any transplants or relocations of bighorn sheep and shall take into consideration these concerns in approving, modifying or canceling any proposed bighorn sheep transplant or relocation. Any such hearing shall be held within thirty (30) days of the request. ~~Upon~~ Prior to any transplant or relocation of bighorn sheep into areas they do not now inhabit or a transplant or relocation to augment existing populations, the department shall provide for any affected federal or state land grazing permittees or owners or leaseholders of private land a written ~~letter~~ agreement signed by all federal, state and private entities responsible for the transplant or relocation stating that the existing sheep or livestock operations in the area of any such bighorn sheep transplant or relocation are recognized and that the potential risk, if any, of disease transmission and loss of bighorn sheep when the same invade domestic livestock or sheep operations is accepted.

(E) If any domestic sheep or livestock operation is, or has been, adversely impacted from any past, present or future transplant or relocation of bighorn sheep, the domestic sheep or livestock operation shall be held harmless from adverse impacts by the state of Idaho.

(F) Should any bighorn sheep graze, stray or drift upon, or in close proximity to, any private, state or federal lands that have any domestic sheep use, or have any domestic sheep allotments administered by the bureau of land management, the U.S. forest service or the Idaho department of lands, the director shall relocate or control the bighorn sheep to ensure that appropriate separation between the bighorn sheep and the domestic sheep is maintained, unless the director certifies that the risk of disease transmission, if any, between the bighorn sheep and the domestic sheep is acceptable. This certification may be based upon:

(i) An agreement regarding a separation strategy between the bighorn sheep and the domestic sheep entered into by the owners of the domestic sheep and the director or his designee; or

(ii) A finding by the director that the bighorn sheep have already been exposed to certain pathogens that makes separation between the bighorn sheep and the domestic sheep unwarranted.

- 1 6. (A) The director shall have the power, at any time when it is desired to introduce any
2 new species, or if at any time any species of wildlife of the state of Idaho shall
3 be threatened with excessive shooting, trapping, or angling or otherwise, to close
4 any open season or to reduce the bag limit or possession limit for such species
5 for such time as he may designate; in the event an emergency is declared to exist
6 such closure shall become effective forthwith upon written order of the director; in
7 all other cases upon publication and posting as provided in section 36-105, Idaho
8 Code.
- 9 (B) In order to protect property from damage by wildlife, the fish and game
10 commission may delegate to the director or his designee the authority to declare an
11 open season upon that particular species of wildlife to reduce its population. The
12 director or his designee shall make an order embodying his findings in respect to
13 when, under what circumstances, in which localities, by what means, and in what
14 amounts, numbers and sex the wildlife subject to the hunt may be taken. In the
15 event an emergency is declared to exist such open season shall become effective
16 forthwith upon written order of the director or his designee; in all other cases upon
17 publication and posting as provided in section 36-105, Idaho Code.
- 18 (C) Any season closure order issued under authority hereof shall be published in
19 at least one (1) newspaper of general circulation in the area affected by the order
20 for at least once a week for two (2) consecutive weeks, and such order shall be
21 posted in public places in each county as the director may direct.
- 22 (D) During the closure of any open season or the opening of any special
23 depredation season by the director all provisions of laws relating to the closed
24 season or the special depredation season on such wildlife shall be in force and
25 whoever violates any of the provisions shall be subject to the penalties prescribed
26 therefor.
- 27 (E) Prior to the opening of any special depredation hunt, the director or his
28 designee shall be authorized to provide up to a maximum of fifty percent (50%)
29 of the available permits for such big game to the landholder(s) of privately
30 owned land within the hunt area or his designees. If the landholder(s) chooses
31 to designate hunters, he must provide a written list of the names of designated
32 individuals to the department. If the landholder(s) fails to designate licensed
33 hunters, then the department will issue the total available permits in the manner
34 set by rule. All hunters must have a current hunting license and shall have equal
35 access to both public and private lands within the hunt boundaries. It shall be
36 unlawful for any landholder(s) to receive any form of compensation from a person
37 who obtains or uses a depredation controlled hunt permit.
- 38 7. The director shall make an annual report to the governor, the legislature, and the
39 secretary of state, of the doings and conditions of his office, which report shall be made in
40 accordance with section 67-2509, Idaho Code.
- 41 8. The director may sell or cause to be sold publications and materials in accordance
42 with section 59-1012, Idaho Code.
- 43 9. Any deer, elk, antelope, moose, bighorn sheep or bison imported or transported by
44 the department of fish and game shall be tested for the presence of certain communicable
45 diseases that can be transmitted to domestic livestock. Those communicable diseases to
46 be tested for shall be arrived at by mutual agreement between the department of fish and

game and the department of agriculture. Any moneys expended by the department of fish and game on wildlife disease research shall be mutually agreed upon by the department of fish and game and the department of agriculture.

In addition, a comprehensive animal health program for all deer, elk, antelope, moose, bighorn sheep, or bison imported into, transported, or resident within the state of Idaho shall be implemented after said program is mutually agreed upon by the department of fish and game and the department of agriculture.

~~In order to enhance and protect the health of wildlife within the state, as well as safeguard the health of livestock resources, the director of the department of agriculture shall employ at least one (1) veterinarian licensed in Idaho whose duties shall include, but not be limited to, addressing wildlife disease issues and coordinating disease prevention work between the department of fish and game and the department of agriculture. The employing of said veterinarian shall be by mutual agreement of the director of the department of fish and game and of the director of the department of agriculture. The veterinarian shall be on the staff of the division of animal industries, department of agriculture. The salary or compensation to be paid said veterinarian or veterinarians shall be divided equally between the department of fish and game and the department of agriculture, and the department of fish and game's portion shall be deposited directly into the livestock disease control account. The veterinarian shall be employed on and after July 1, 1989.~~

10. In order to monitor and evaluate the disease status of wildlife and to protect Idaho's livestock resources, any suspicion by fish and game personnel of a potential communicable disease process in wildlife shall be reported within twenty-four (24) hours to the department of agriculture. All samples collected for disease monitoring or disease evaluation of wildlife shall be submitted to the division of animal industries, department of agriculture.

11. (A) The director is authorized to enter into an agreement with an independent contractor for the purpose of providing a telephone order and credit card payment service for controlled hunt permits, licenses, tags, and permits.

(B) The contractor may collect a fee for its service in an amount to be set by contract.

(C) All moneys collected for the telephone orders of such licenses, tags, and permits shall be and remain the property of the state, and such moneys shall be directly deposited by the contractor into the state treasurer's account in accordance with the provisions of section 59-1014, Idaho Code. The contractor shall furnish a good and sufficient surety bond to the state of Idaho in an amount sufficient to cover the amount of the telephone orders and potential refunds.

(D) The refund of moneys for unsuccessful controlled hunt permit applications and licenses, tags, and permits approved by the department may be made by the contractor crediting the applicant's or licensee's credit card account.

12. The director may define activities or facilities that primarily provide a benefit: to the department; to a person; for personal use; to a commercial enterprise; or for a commercial purpose.

SECTION 2. That Section 36-408, Idaho Code, be, and the same is hereby amended to read as follows:

1 36-408. COMMISSION'S AUTHORITY – TAGS – PERMITS – NONRESIDENTS
 2 LIMITED – OUTFITTERS SET-ASIDE. (1) Tags and Permits – Method of Use. The
 3 commission is hereby authorized to prescribe the number and kind of wildlife that may be
 4 taken under authority of the several types of tags and permits provided for in this title, and the
 5 manner in which said tags and permits shall be used and validated.

6 (2) Limit – Licenses, Tags or Permits – Controlled Hunts. The commission is hereby
 7 authorized to establish a limit annually as to the number of each kind and class of licenses,
 8 tags, or permits to be sold or issued and is further authorized to limit the number or prohibit
 9 entirely, the participation by nonresidents in controlled hunts.

10 (3) Outfitters Set-aside. When the commission establishes a limit as to the number
 11 of nonresident deer tags and nonresident elk tags, it shall set aside annually a maximum of
 12 twenty-five percent (25%) of the nonresident deer tag and nonresident elk tag limit. The
 13 set-aside tags shall be sold pursuant to commission rule, only to persons that have entered
 14 into an agreement for that year to utilize the services of an outfitter licensed pursuant to chapter
 15 21, title 36, Idaho Code.

16 In order for a person to purchase any set-aside nonresident deer tag or nonresident elk
 17 tag, that person's outfitter must submit an application with the proper fees as required by
 18 the director. If any nonresident deer tags or nonresident elk tags set aside pursuant to this
 19 subsection are unsold by July 1 of the year in which they were set aside, they may be sold by
 20 the department to the general public who are nonresidents. The commission may promulgate
 21 all necessary rules to implement the provisions of this subsection.

22 (4) Deer and Elk Tag Allocation. If the commission limits the number of deer or elk tags
 23 available for use in any game management area, unit or zone, the commission may allocate by
 24 rule a number of deer or elk tags for use by hunters that have entered into an agreement for that
 25 year to utilize the services of an outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

26 (5) Special Game Tags. The commission is hereby authorized to issue two (2) special
 27 bighorn sheep tags per year.

28 (a) Auction bighorn sheep tag. One (1) special bighorn sheep tag shall be auctioned
 29 off by an incorporated nonprofit organization dedicated to wildlife conservation, selected
 30 by the commission. The tag shall be issued by the department of fish and game to the
 31 highest eligible bidder. No more than five percent (5%) of all proceeds for the tag may
 32 be retained by the organization. The tag to be issued pursuant to this subsection shall be
 33 taken from the nonresident bighorn sheep tag quota. The net proceeds shall be forwarded
 34 to the director for deposit in the fish and game expendable trust account and shall be
 35 used for bighorn sheep research and management purposes. Moneys raised pursuant to
 36 this subsection may not be used to transplant additional bighorn sheep into that portion
 37 of southwest Idaho south of the Snake River and west of U.S. highway no. 93, nor for
 38 litigation or environmental impact statements involving bighorn sheep. No transplants of
 39 bighorn sheep accomplished with moneys raised pursuant to this subsection shall occur in
 40 any area until hearings are conducted in the area.

41 (b) Lottery bighorn sheep tag. The commission is also authorized to issue one (1)
 42 special bighorn sheep tag which will be disposed of by lottery. The lottery permit can
 43 be marketed by the department of fish and game or a nonprofit organization dedicated
 44 to wildlife conservation selected by the commission. The tag will be issued by the
 45 department of fish and game to an eligible person drawn from the lottery provided in this
 46 subsection. No more than twenty-five percent (25%) of gross revenue can be retained

1 for administrative costs by the organization. All net proceeds for the tag disposed of by
2 lottery pursuant to this subsection shall be remitted to the department and deposited in the
3 fish and game expendable trust account. Moneys in the account from the lottery bighorn
4 sheep tag shall be utilized by the department in solving problems between bighorn
5 sheep and domestic sheep, solving problems between wildlife and domestic animals or
6 improving relationships between sportsmen and private landowners ~~by being utilized in~~
7 ~~the veterinarian program established in subsection (c)9. of section 36-106, Idaho Code.~~

8 (6) Issuance of free permit or tag to minor children with life-threatening medical
9 conditions. Notwithstanding any other provision of law, the commission may issue free big
10 game permits or tags to minor children who have life-threatening medical conditions that
11 have been certified eligible by a qualified organization. The commission may prescribe by
12 rule the manner and conditions of issuing and using the permits or tags authorized under
13 this subsection (6). For purposes of this subsection (6) a "qualified organization" means a
14 nonprofit organization that is qualified under section 501(c)(3) of the Internal Revenue Code
15 and that affords opportunities and experiences to minor children with life-threatening medical
16 conditions.

17 (7) Special Wolf Tags. The commission is hereby authorized to issue up to ten (10)
18 special auction or lottery tags for hunting wolves. Special wolf tags will be auctioned off
19 or made available through lottery by incorporated nonprofit organizations dedicated to wildlife
20 conservation and selected by the director. No more than five percent (5%) of all proceeds for
21 each tag may be retained by the nonprofit organization for administrative costs involved. Each
22 wolf tag shall be issued by the department of fish and game and awarded to the highest eligible
23 bidder or winner of a lottery. Each tag will be good for the harvest of one (1) wolf pursuant to
24 commission rule. The proceeds from each tag will be sent to the director to be placed in the
25 department general license fund.

26 SECTION 3. An emergency existing therefor, which emergency is hereby declared to
27 exist, this act shall be in full force and effect on and after its passage and approval.